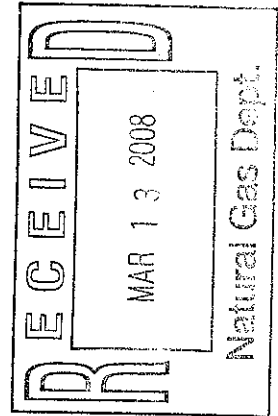


BEFORE THE PUBLIC SERVICE COMMISSION OF NEBRASKA

In the Matter of Nebraska Resources)
Company, LLC, Tulsa, Oklahoma,)
seeking a Certificate of Public Convenience)
and Necessity authorizing it to operate as)
a jurisdictional utility in Nebraska)
and approval of tariff.)

Application No. NG-0053



**COMMENTS OF SOURCEGAS DISTRIBUTION LLC
REGARDING PROPOSED SCHEDULE AND SCOPE OF HEARING**

INTRODUCTION

On January 15, 2008, Nebraska Resources Company, LLC ("NRC") filed an Application for a Certificate of Public Convenience and Necessity ("Application") to authorize NRC to operate as a jurisdictional utility in Nebraska. SourceGas Distribution LLC ("SourceGas") is a formal intervenor in this proceeding.

On March 3, 2008, the Commission's Hearing Officer, Commissioner Frank Landis, convened a planning conference. On March 5, 2008, the Hearing Officer issued an Order Requesting Comment Regarding Proposed Schedule and Scope of Hearing. SourceGas submits the following comments in response to the March 5th Order.

COMMENTS

Scope of Hearing

NRC proposes to construct and operate a natural gas pipeline located wholly within the State of Nebraska. This Commission first examined certain "threshold questions" posed by NRC in its Order issued on October 30, 2007 in Docket NG-0051 (the "Jurisdictional Order"). In SourceGas' view, there are serious questions whether the NRC Application is consistent with the Jurisdictional Order.

First, the Commission determined in its Jurisdictional Order that it would have jurisdiction over NRC's proposed intrastate pipeline under the "Hinshaw Exemption" to the federal Natural Gas Act. 15 U.S.C. §§ 717 et seq. The Commission correctly observed, at pages 4 and 5 of its Order, that pipelines covered by the Hinshaw Exemption are "matters primarily of local concern and subject to regulation by the several States" and "[a] certification from such State commission to the Federal Power Commission that such State commission has regulatory

jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction." 15 U.S.C. § 717(c) (Jurisdictional Order, at 4-5). The Commission correctly concluded in its Jurisdictional Order that "[i]f a pipeline falls within the Hinshaw Exemption as outlined [in the order], it is subject to the jurisdiction of the state in which it is located and the utility must comply with all state statutes and regulations." (Jurisdictional Order, at 6). As the Commission declared, "A utility is not free to either subject itself to the commission's jurisdiction or not." (Id.).

SourceGas agrees and submits that the Application continues to propose a mixed state-federal jurisdiction that will undermine the Commission's authority over the proposed pipeline. NRC has elected to apply for a certificate of public convenience from the Commission, and the NRC pipeline, which will be located wholly within the State of Nebraska, must be subject, wholly and not partially, to the Commission's jurisdiction. SourceGas respectfully submits that this issue must be a part of the scope of the hearing in this matter, including appropriate associated conditions accompanying any Commission grant of authority.

Second, SourceGas concurs with the Hearing Officer's statement, at page 2 of the March 5th Order, that the Commission must address in this proceeding the question of whether NRC's proposed project would violate the duplicative piping prohibition set forth in Neb. Rev. Stat. § 66-1852. In its October 2007 Jurisdictional Order, the Commission rejected NRC's argument that federal preemption would prohibit the Commission from applying the duplicative piping prohibition of § 66-1852. The Commission concluded that "if the pipeline at issue constitutes a "Hinshaw Pipeline", then it is subject to the plain language of the SNGA [sic] and the commission's jurisdiction, just as any other natural gas public utility operating within Nebraska would be." (Jurisdictional Order, at 9). SourceGas remains concerned that the positions outlined by NRC in its Application indicate that NRC will attempt to use the specter of federal regulation to obtain a certificate of public convenience from the Commission in order to allow its project to proceed, and then ignore the double piping prohibition by cherry-picking high volume ratepayers currently being served by SourceGas or other entities in Nebraska, putatively under federal authority. SourceGas respectfully submits that the Commission is obligated to enforce the double piping prohibition in the same way the Commission enforces other provisions of the Act.

Third, SourceGas is concerned that NRC contemplates a more limited review of its proposed rates than is required by the Act. As the Commission concluded in its Jurisdictional Order, the Commission "clearly has jurisdiction over the rates and services offered to an LDC." (Jurisdictional Order, at 6). Furthermore, the Commission already has ruled that NRC's "rates and services will be subject to the same review as rates charged by any other jurisdictional utility." (*Id.*). The State Natural Gas Regulation Act ("Act") requires that rates must be "just and reasonable" and "not be unreasonably preferential or discriminatory." Neb. Rev. Stat. § 66-1825(1). Furthermore, NRC's Application proposes a rate design which must be examined for consistency with the Act's requirement, among others, that rates charged by a jurisdictional utility must be cost-based. Neb. Rev. Stat. § 66-1825; Jurisdictional Order, at 6.

The Commission's review in past rate cases involving SourceGas and Aquila has been detailed and rigorous, requiring substantial pre-filed testimony, including expert witness testimony. In contrast, in its Comments filed with the Commission on February 29, 2008, NRC urges the Commission to undertake a limited review of its proposed rates. NRC justifies its position because its proposed rates are based on "estimated costs, revenues, and billing determinants." (Comments, at 2). However, this is not unlike the test-year approach used by jurisdictional utilities in rate cases before this Commission. Furthermore, NRC's reliance on FERC policy for its rate review proposal is misplaced; it is the Act which governs this Application. Finally, SourceGas submits that the Commission must carefully scrutinize NRC's request for negotiated rate authority in the hearing held in this matter.

Proposed Schedule

In light of the issues outlined in the foregoing comments, SourceGas submits that the parties and the Commission will need additional time to adequately and fairly address the NRC Application. Under the schedule proposed in the March 5th Order, intervenors will have less than two (2) months to complete discovery, and must even submit their pre-filed testimony on the same day that discovery concludes, May 1, 2008. Although SourceGas acknowledges the Commission's desire to complete the hearing in a timely manner, nevertheless it is important to recognize the rights of the intervenors to have a reasonable time to complete discovery, secure testimony, including expert testimony, as needed, and prepare pre-filed testimony that will assist the Commission in determining whether the NRC Application should be granted and its

proposed rates approved. Therefore, SourceGas respectfully submits that the proposed procedure schedule should be extended by at least two (2) weeks for each of the key dates in the schedule.

Dated this 13th day of March, 2008.

Respectfully submitted,

SOURCEGAS DISTRIBUTION LLC,

By:

A handwritten signature in black ink, appearing to be "Stephen M. Bruckner", is written over a horizontal line. To the right of the signature, the number "22498" is handwritten.

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CERTIFICATE OF SERVICE

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